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SIPDIS

DEPARTMENT FOR WHA/PPC (LYNN) AND PM/B (WESTMORELAND)

E.O. 12958: N/A

TAGS: [MARR](#) [MOPS](#) [MASS](#) [PREL](#) [GT](#)

SUBJECT: CIRCULAR 175 REQUEST FOR NEW HORIZIONS 2004  
MILITARY EXERCISE

1. Summary and Action Request: Post requests circular 175 authority to negotiate an exercise-specific agreement with the Government of Guatemala (GOG) that would cover U.S. personnel participating the planned New Horizons 2004 - Guatemala exercise. Except for point number 13 which incorporates Article 98-like protections and a few minor edits to limit the scope of the agreement to the exercise, the text of the diplomatic note proposed below is identical to the Status of Forces Agreement Post was authorized to negotiate with the GOG in January 2001. Given that the GOG under separate administrations has essentially refused to respond to repeated requests to negotiate updated SOFAS (pending since March 1999), Post proposes the exercise-specific agreement as an intermediate step that would help set a positive precedent for a full-blown SOFA in the future.

2. New Horizons 2004 is a joint Humanitarian and Civic Assistance (HCA) exercise designed to provide training opportunities for U.S. military engineers and support personnel via the construction of schools, clinics and water wells in the impoverished Guatemalan province of Jutiapa. The exercise will include Medical Readiness Training Exercises (MEDRETES) at several sites in the same area, and is scheduled for the March - June 2004 time frame. End Summary.

3. Begin text of proposed diplomatic note.

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Guatemala and has the honor to refer to ongoing discussions between representatives of our two governments regarding issues related to the status of the United States military and civilian personnel who are employees of the United States Armed Forces and who may be temporarily present in Guatemala in connection with the Humanitarian and Civic Assistance (HCA) exercise known as New Horizons 2004 - Guatemala (hereafter referred to as "the exercise"), planned to be conducted jointly by the Guatemalan and United States Armed Forces from 1 March - 30 June, 2004 (hereafter referred to as the "duration of the exercise"). The Embassy has the honor to propose the following agreement between our two governments with regard to the conduct of the exercise:

--The present agreement will be in addition to the following accords: The Military Air Transit Agreement of December 29, 1949; the General Accord on Technical Cooperation of September 1, 1954; the Military Assistance Agreement of June 18, 1955, and the Status of Military Mission Personnel Agreement of May 4, 1965.

--The present agreement does not imply the passage of a foreign army through Guatemalan national territory, nor the temporary establishment of foreign military bases.

--"United States Personnel" shall mean military and civilian personnel of the United States Armed Forces temporarily present in Guatemala in connection with the exercise.

--It shall be the responsibility of the United States personnel to respect the laws of Guatemala and to abstain from any activity inconsistent with the spirit of the agreement herein described. United States authorities will take necessary measures to that end.

--The Government of Guatemala shall accord to the United States personnel temporarily present in Guatemala in connection with the exercise status equivalent to that accorded to the administrative and technical staff of the United States Embassy in accordance with the Vienna Convention on Diplomatic Relations of April 18, 1971. If, notwithstanding the preceding sentence, Guatemalan authorities detain any United States personnel, the Guatemalan authorities shall immediately notify the Embassy of the United States of America in Guatemala and promptly return such personnel to United States control. Guatemalan and U.S. military police investigators shall cooperate in the investigation of any crime believed to have been committed by or against United States personnel.

--United States personnel may enter and leave Guatemala with United States Government identification and collective

movement or individual travel orders.

--United States personnel may wear their uniforms while performing official duties in Guatemala.

--United States personnel in Guatemala shall enjoy freedom of movement and the right to undertake those activities deemed necessary for the performance of their mission. Guatemalan authorities shall accept as valid, without a driving test or fee, a driving permit or license issued by the appropriate United States authority to United States personnel for the operation of military or official vehicles. Vehicles owned by the United States need not be registered, but shall have appropriate identification markings.

--The Government of Guatemala shall accept as valid medical licenses issued by the appropriate United States authorities to United States personnel.

--The Government of the United States of America and the Government of Guatemala shall waive any and all claims against each other, other than contractual claims, for damage, loss, or destruction of the other's property arising from activities to which this agreement applies.

--The Government of Guatemala shall indemnify the United States Government for all claims by anyone (vice "third parties") arising from the activities of United States personnel related to the exercises. For all other claims, (vice "by third parties") the Government of the United States of America shall consider the claims and decide whether it will offer an ex gratia payment, and if so, in what amount. The Government of Guatemala shall, upon the request of the United States Government, submit advice and recommendations on Guatemalan law to the claims authorities of the United States Government for their use in evaluating liability and the amount of damages. These claims shall be expeditiously processed and settled by United States authorities in accordance with United States law.

--The military and civilian personnel of the United States Armed Forces shall not be subject to any proceedings for the enforcement of any judgment given against them in Guatemala in a matter arising from the performance of their official duties.

--The Government of Guatemala and the Government of the United States agree that neither government will surrender, expel or transfer by any means, personnel of the other government to any international tribunal for any purpose, unless such tribunal is established by the UN Security Council, without the expressed consent of the other government. Both governments further agree that neither government will surrender, expel, or transfer by any means personnel of the other government to any entity or third country for the purpose of surrender to or transfer to any international tribunal, unless such tribunal has been established by the UN Security Council, without the expressed consent of the other government.

--United States Government equipment, material, supplies and other property imported into or acquired in Guatemala by or on behalf of the United States Armed Forces in connection with the exercise, shall be free from all Guatemala inspections, duties, taxes, and other charges. Title to such property shall remain with the United States Government, which may remove such property from Guatemala at any time, free from export duties, taxes, and similar charges. The exemption provided in this paragraph shall also extend to any duty, tax, or other charges, which would otherwise be assessed upon such property after importation into, or acquisition in, Guatemala. Such property may be removed from Guatemala, or disposed therein, provided that disposition of such property in Guatemala to persons or entities not entitled to exemption from applicable taxes or duties shall be subject to payment of such taxes and duties by such persons or entities.

--Baggage, personal effects and other property for the personal use of United States personnel may be imported into and used in Guatemala free from all inspections, taxes and other charges during the period of their service in Guatemala. Such property shall normally be exported or transferred to other United States personnel. Transfers of such property to persons or entities in Guatemala not entitled to import privileges may be made only under terms and conditions including payment of applicable duties and taxes imposed by the Government of Guatemala. The exportation of such property and of property acquired in Guatemala by United States personnel shall be free from all duties, taxes, and other charges.

--The United States Armed Forces and United States personnel may use water, electricity, and other public utilities and facilities on terms and conditions, including rates or charges, no less favorable than those available to the

Guatemalan Armed Forces, in like circumstances, unless otherwise agreed. The Government of Guatemala shall, upon request, assist United States authorities in obtaining water, electricity, and other public utilities and facilities.

--Guatemalan authorities shall permit the United States Armed Forces and United States personnel to utilize radio communication for the conduct of official duties of the United States personnel. The Government of Guatemala shall notify the United States Armed Forces of the radio frequencies for local and international official communication to be used for this purpose.

--United States personnel may deploy with all authorized unit and individual equipment. Maintenance, control, and security of equipment will be the responsibility of the United States Armed Forces.

--Vehicles, vessels, and aircraft owned or operated by or for the United States Armed Forces shall not be subject to the payment of landing or port fees, pilotage charges, navigation or overflight charges, or tolls or other use charges, including light and harbor dues while in Guatemala. However, the United States Armed Forces shall pay reasonable charges for services requested and received. Aircraft operated by or for the United States Armed Forces shall observe local air traffic control regulations while in Guatemala. Vessels owned or operated by or for the United States Armed Forces shall not be subject to compulsory pilotage in Guatemala, but United States Armed Forces will allow a Guatemalan military observer on board while in Guatemalan territorial water to comply with Guatemalan law.

--United States and Guatemalan authorities may cooperate in taking such steps as may be necessary to insure the security of United States personnel and property in Guatemala pursuant to the provisions herein described.

--The specific responsibilities and actions necessary to execute this agreement will be specified in a Memorandum of Agreement between the armed forces of both countries. Any differences regarding the interpretation or application of the provisions herein described shall be resolved by consultation between our two governments.

--The United States has the honor to propose that if the foregoing is acceptable to the Government of Guatemala, this note and your note in reply shall constitute an agreement between our two governments to conduct the exercise under the terms of this agreement, which shall enter into force 60 days before the exercise commences and will remain in force until 30 June 2004 or for the duration of the exercise.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Relations of the Republic of Guatemala the assurances of its highest consideration. End text.  
Hamilton